

17  
Substantive  
C1  
Amended

a. a triangular shaped elongated member having a first panel, a second panel, and a third panel forming the elongated member, said elongated member composed of a flexibly resilient polymer plastic;

b. a first anchoring flap, a second anchoring flap, and a third anchoring flap, each of said anchoring flaps having a first end and a second end, each of said anchoring flaps integrally connected to said elongated member, each of said anchoring flaps located proximate a second end of said elongated member; and

c. a first flexible living hinge, a second flexible living hinge, and a third flexible living hinge; the second end of said first anchoring flap attached to the first panel of said elongated member by said first flexible living hinge, the second end of said second anchoring flap attached to the second panel of said elongated member by said second flexible living hinge, the second end of said third anchoring flap attached to the third panel of said elongated member by said third flexible living hinge, each of said anchoring flaps moveable from a first closed position to facilitate the handling and transportation of said marker post to a second open position to prevent the withdrawal of said elongated member from an embedded position whereby the flaps has a sufficient memory to stay in the open position until the post can be embedded.

9. (Amended) The marker post of claim 7 wherein said polymer plastic is polycarbonate or polyethylene.

10. (Amended) The marker post of claim 7 wherein said elongated member is sufficiently stiff to permit the marker post to be driven into a top layer of soil.

#### REMARKS

The applicant has received and reviewed the office action of June 6, 2002 wherein the office rejected claims 1-7 and 9-12 as being anticipated by Griffiths et al. under 35 U.S.C. 102 and claim 8 as being